

## INTERFERENCE DIGEST

Interference No. 105,170

Paper No.

Name: Stefan M. Pulst

Serial No.: 08/981,998

Patent No.

Title: Nucleic acid encoding spinocerebellar ataxia-2 and products related thereto

Filed: 05/11/98

Interference with Tsuji et al.

### DECISION ON MOTIONS

Administrative Patent Judge, \_\_\_\_\_ Dated, \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### FINAL DECISION

Board of Patent Appeals and Interferences, \_\_\_\_\_ Dated, \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Court, \_\_\_\_\_ Dated, \_\_\_\_\_

### REMARKS

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\_\_\_\_\_  
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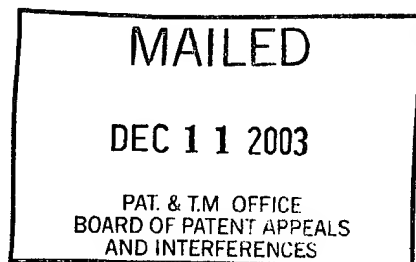
This should be placed in each application or patent involved in interference in addition to the interference letters.



## UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES  
BOX INTERFERENCE, WASHINGTON, D.C. 20231

Filed by: Judge Richard Torczon  
Telephone: (703) 308-9797  
Facsimile: (703) 305-0942



Applicant: PULST  
Application No.: 08/981,998  
Filed: 05/11/98  
For: Nucleic acid encoding spinocerebellar  
ataxia-2 and products related thereto  
Accorded benefit: PCT/US97/07725, filed 05/08/97;  
Application 08/727,084, filed 10/08/96

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 105,170.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

  
RICHARD TORCZON  
Administrative Patent Judge

MAIL STOP INTERFERENCE  
ALEXANDRIA VA 22313-1450  
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Paper 1

UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

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Patent Interference No. 105,170

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**SRL, K.K.**  
(09/101,132),  
Junior Party,

v.

**CEDARS-SINAI MEDICARE CENTER**  
(08/981,998),  
Senior Party.

**MAILED**

**DEC 11 2003**

PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

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**NOTICE DECLARING INTERFERENCE**  
(37 CFR § 1.611)

**A. Declaration of interference**

An interference is declared (35 U.S.C. 135(a)) between the captioned parties.

Details of the applications, count, and claims designated as corresponding to the count appear under headings E and F of this NOTICE.

**B. Administrative patent judge assigned to administer the interference**

The interference has been assigned to Administrative Patent Judge Richard Torczon. 37 CFR § 1.610.

**C. Standing order**

A copy of the Trial Section STANDING ORDER (Paper 2) accompanies this NOTICE. The STANDING ORDER applies to this interference.

**D. Conference call to set dates**

A telephone conference call to set dates for action in this interference is scheduled for **10 a.m. (Eastern) on 11 February 2004.** (The Board will initiate the call.)

No later than **two business days** prior to the conference call, each party shall file and serve by facsimile a list of the preliminary motions the party intends to file. See STANDING ORDER ¶ 10.

A copy of a sample order setting times for taking action during the preliminary motion phase of the interference accompanies this NOTICE. Counsel are encouraged to discuss the order by telephone prior to the telephone conference call and to reach an agreement as to dates for taking action. A typical preliminary motion period lasts approximately nine months. Counsel should be prepared to justify any request for a shorter or longer period.

The Board is conducting a pilot program in electronic filing of interference papers. The procedure is explained in University of New Mexico v. Fordham Univ., No. 104,761 (2001) (<http://www.uspto.gov/web/offices/dcom/bpai/its/104761-021.pdf>). Counsel should be prepared to discuss participation in the pilot program.

**E. The parties to this interference**

Junior Party

**Inventors:** Shōji TSUJI and Kazuhiro SANPEI, both of Niigata-shi, Niigata, JAPAN

**Application:** 09/101,132 ["132"], filed 30 June 1998

**Title:** cDNA Fragment of Gene Causative of Spinocerebellar Ataxia Type 2

**§102(g) benefit:** PCT/JP97/03946, filed 30 October 1997  
JAPAN 304059/1996, filed 30 October 1996

**Assignee:** SRL, K.K., of Tachikawa-shi, Tōkyō, JAPAN

**Attorneys:** See last page

**Address:** See last page

Senior Party

**Inventors:** Stefan-M. PULST of Los Angeles, CALIFORNIA

**Application:** 08/981,998 ["998"], filed 11 May 1998

**Title:** Nucleic Acid Encoding Spinocerebellar Ataxia-2 and Products Related Thereto

**§102(g) benefit:** PCT/US97/07725, filed 8 May 1997  
08/727,084, filed 8 October 1996

**Assignee:** Cedars-Sinai Medicare Center

**Attorneys:** See last page

**Address:** See last page

**F. Count and claims of the parties**

Count 1

An isolated nucleic acid of 132 claim 23 OR 998 claim 72.

Count 2

An isolated nucleic acid of 132 claim 25 OR 998 claim 71.

The claims of the parties are:

SRL: 22-26

Cedars-Sinai: 59, 61, 71-75, 83, and 84

The claims corresponding to Count 1:

SRL: 22, 23, and 26

Cedars-Sinai: 72 and 83

The claims corresponding to Count 2:

SRL: 22-26

Cedars-Sinai: 71

The claims not corresponding to either count:

SRL: None

Cedars-Sinai: 59, 61, 73, 75, and 84<sup>1</sup>

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<sup>1</sup> The parties should be prepared to discuss whether these claims should be restricted out at the initial conference.

**G. Heading to be used on papers**

Addendum 1 provides the heading that shall be used on all papers filed in the interference. See STANDING ORDER ¶ 3.5.

**H. Summary of dates for taking action**

Addendum 2 provides a summary of dates and times for taking action set in the STANDING ORDER.

**I. Order form for requesting file copies**

Addendum 3 provides an order form for requesting file copies. Use of the form will expedite the processing of your request.

**J. Notice of intent to publish**

In the event that this proceeding should result in a decision or order that the Board believes would be of interest to the public, the decision or order will be published without redaction unless, within sixty days of the entry date of this notice of declaration a party files as a separate paper a notice that specifically identifies information in its application that is not already publicly available that would warrant redaction.

If, after filing such notice, specifically identified information becomes publicly available (for example, through publication of a collateral application), the party shall promptly notify the Board of this change in the status of the information.

The parties are reminded that, in any case, at the end of the proceeding all of the information in the proceeding may be publicly available pursuant to 37 CFR § 1.11(e).

  
RICHARD TORCZON  
Administrative Patent Judge

Enclosures:

- Copy of STANDING ORDER (Paper 2)
- Copy of order used for setting times for taking action in the preliminary motion phase of the interference
- Copy of order used for setting times for taking action in the priority phase of the interference
- Copy of the application claims for 08/981,998 and 09/101,132.

cc (via overnight carrier):

For SRL:

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For Cedars-Sinai Medicare Center:

David L. Provence  
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MUETING, RAASCH & GEBHARDT, P.A.  
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<sup>2</sup> PO Box 747, Falls Church VA 22040-0747.

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Interference No. 105,170  
SRL v. Cedars-Sinai Medicare Center

Paper 1  
Page 7

ADDENDUM 1

Filed on behalf of: Party \_\_\_\_\_  
By: Name of lead counsel  
Name of backup counsel  
Street address  
City, State, and ZIP Code  
Tel:  
Fax:

Paper No. \_\_\_\_\_<sup>2</sup>

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES  
(Administrative Patent Judge Torczon)

**SRL, K.K.**  
(09/101,132),  
Junior Party,

v.

**CEDARS-SINAI MEDICARE CENTER**  
(08/981,998),  
Senior Party.

Patent Interference No. 105,170

TITLE OF PAPER

<sup>2</sup> Leave blank for the Board to insert the paper number when the paper is entered into the administrative record.

**ADDENDUM 2**

**SUMMARY OF DATES FOR TAKING ACTION**

Dates and times for taking action are set in the following paragraphs of the

**STANDING ORDER:**

<u>Date</u>	<u>Paragraph</u>
Identifying lead and backup counsel .....	¶ 4
Identifying any real party in interest .....	¶ 5
Requesting copies of involved and benefit applications and patents .....	¶ 6
Accomplishing certain discovery .....	¶ 7
Filing clean copy of claims .....	¶ 8
Filing clean copy of claims in cases with drawings or claims containing a means-plus-function limitation .....	¶ 9
Filing list of proposed preliminary motions .....	¶ 10
Filing oppositions to Rule 635 miscellaneous motions and dates for filing replies to oppositions .....	¶ 13.10.2
Objecting to admissibility of evidence .....	¶ 14.1.1
Serving supplemental affidavits or evidence to respond to objection to admissibility of evidence .....	¶ 14.2
When cross-examination can take place .....	¶ 14.3
Taking action with respect to settlement discussions .....	¶ 15.2

**ADDENDUM 3**

**FILE COPY REQUEST**  
**Patent Interference No. 105,170**

Attach a copy of section E of this NOTICE to this REQUEST. On the copy, circle each patent and application that you are requesting.

Include the following information to facilitate processing of this REQUEST:

1. Charge fees to USPTO Deposit Account No. \_\_\_\_\_
2. Complete address, including street, city, state, zip code and telephone number (do not list a Post Office box because file copies are sent by commercial overnight courier).  
  
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3. Telephone, including area code: \_\_\_\_\_